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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,751	08/07/2000	BERTIL R.R. PERSSON	U012883-2	9637

140 7590 07/21/2006

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NEW YORK, NY 10023

EXAMINER
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OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3766

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Amendment***

1. The Applicant amended at least the independent claims in the response filed in the 3/24/06 and 5/10/06, hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraphs.

### ***Restriction***

2. Newly submitted claim 87 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The previously submitted claims do not claim “sensors arranged to detect the distance between the electrodes”.

Since the Applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 87 and the dependent claims 59-64 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

3. Claims 44-55, 57, 58, 70-73, 75-79, 81 and 83-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver et al. (US 5019034). Weaver et al. teach an electroporation device and methods that have an impedance measuring circuit that determines the degree of REB – reversible electrical breakdown – a.k.a. cell electroporation, by measuring impedance at multiple points in the stimulation cycle to control the pulse generator to maintain the REB. The controller, recognized as the registration and conversion means / computer or microcomputer, interfaces with the impedance measuring unit to control the pulse generator as to the number of pulses, the timing, frequency and voltage to provide the

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desired treat effect/ create constant electrical fields, such capability of pulse control indicative of a controller with memory and processing capability (abstract; figs. 1, 3; col. @ 1-5; col. 4 @ 1-36; col. 5 @ 26-56; col. 7 @ 19-35; col. 9 @ 38 - col. 10 @ 23 and 36-48; col. 11 @ 6-38).

As to the impedance measurement measuring a change in capacitance to terminate the pulses when a desired treatment is obtained, Weaver et al. teach the impedance measurement is used to measure a change in capacitance and to terminate the pulses when a desired treatment is obtained (col. 10 @ 16-23; col. 13 @ 46 – col. 13 @ 14).

### ***Objections***

4. The Examiner notes the following objections:
  - on page 8, line 9 of the specification, a trademark, Teflon <sup>TM</sup>, is used with out indicating the trademark status, and
  - In claim 71, final line, it appears “assement” should be --assessment--.

### ***Statutory Basis***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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*Conclusion*


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3766

*FPO*  
*7/18/06*

  
Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3766